

Message

From: Rodrigues, Cecil [rodrigues.cecil@epa.gov]
Sent: 5/4/2020 11:53:47 AM
To: Andrea Baker -MDE- [andrea.baker@maryland.gov]; Jonathan May -MDE- [jonathan.may@maryland.gov]
CC: Gable, Kelly [Gable.Kelly@epa.gov]; Field, Stephen [Field.Stephen@epa.gov]
Subject: RE: Question regarding coverage under expired GP

Andrea: As long as the application was complete and accurate) and was submitted prior to the date of expiration, the applicant can be covered even though the permitting authority did not act to process the registration.

Thanks. Cecil.
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From: Andrea Baker -MDE- <andrea.baker@maryland.gov>
Sent: Friday, May 1, 2020 4:46 PM
To: Rodrigues, Cecil <rodrigues.cecil@epa.gov>; Jonathan May -MDE- <jonathan.may@maryland.gov>
Subject: Question regarding coverage under expired GP

Cecil - as we work through this issue, I have an important question. Are people that were not covered by the prior permit but applied before the permit ended able to be registered under the expired permit when MDE didn't finish the registration before the permit expired? To me it seems based on the excerpt of the EPA letter below that this would be allowed. This would be helpful to allow MDE to focus on registrations after the permit expired and new ones received before a new permit is issued. Thank you for looking at this so we can timely address this issue. I appreciate it.

Federal regulations at 40 C.F.R. §122.46(a) (applicable to states per 40 C.F.R. § 123.25) state that "NPDES permits shall be effective for a fixed term not to exceed five years." Both the Maryland construction and stormwater industrial (12-SW) general permits have exceeded this duration. While the federal regulations allow for administrative extension of expired permits (see 40 C.F.R §122.6), this continuance applies only to those permittees that have permit coverage or have submitted a timely and complete reapplication for permit coverage prior to the expiration date of the general permit. This is based upon the condition in the regulations that permit coverage may continue if a complete application has been submitted by the permittee but may not have been acted upon in a timely manner by the permitting authority. While coverage for existing permittees who submitted timely and complete applications prior to the expiration of the general permits is administratively continued, new applicants may not obtain NPDES coverage under an expired general permit.

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